IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2007

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE P.P.S.JANARTHANA RAJA

W.A.No.788 of 2000

The Forest Range Officer
Tambaram, Chennai-600 045. .. Appellant

Vs.

1.V.K.Raghupathy
S/o.V.Kannappan
President, Rajiv Gandhi Nagar
Stone Quarry Labourers Residents
Welfare Association (Regd.No.284/91)
8, Bharathiyar Street Extension
Thirumalai Road, Rajiv Gandhi Nagar
West Tambaram, Chennai - 600 045.
2.Jayabalan
3.M.Kandasamy
4.P.Mani
5.P.Nainar
6.M.Selvaraj
7.R.Ramakrishnan
8.C.Selvam
9.Govindasamy
10.Mrs.Sankari
11.S.Parvin
12.N.Masanam
13.Govindan
14.Kannammal
15.M.Pauldurai
16.P.Chellappa
17.Madhu
18.Kanga Subramani
19.D.Dhanalakshmi
20.Dharman
21.S.Sadhuraj
22.Karuppusamy

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23.Murugesan
24.Mrs.Periya Thai
25.Mariappan
26.Azhagappan
27.C.Vijaya
28.Shanmugam
29.Pachiyammal
30.Pappa
31.A.Rasappan
32.Narayanan
33.Aarayee
34.Govindaraj
35.Chandran
36.Kamala
37.Krishna
38.Thavamani
39.Yesadiyal
40.Madathi
41.Viji
42.Karnan
43.Jothi
44.R.Rajendiran
45.P.Chandran
46.Ramalingam
47.Vijayalakshmi
48.Vellaiammal
49.T.M.Rathinam
50.Venkataraman
51.Arumugam
52.K.Duraisamy
53.M.Govindarajan
54.M.Kuppusamy
55.A.Munusamy
56.A.Annamalai
57.Lakshmi
58.Muthulakshmi
59.Selvi
60.Mathammal
61.M.Kesavan
62.Pappa
63.N.Elumalai
64.Vasantha
65.C.Palani
66.Nanjappan
67.Kasiammal
68.M.Krishnasamy
69.M.Govindaraj
70.Sundarammal
71.Pappa
72.Kasi

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73.Santha
74.P.Govindaraj
75.Chinnaponnu
76.Alamelu
77.Valli
78.Palaniammal
79.M.Palani
80.Durai
81.Subramani
82.Kuppan
83.Madhavan
84.Lakshmi
85.S.Palanichamy
86.Gopal
87.Kaliappan
88.Pappathi
89.Vella Udayar
90.Chellammal
91.Ranganathan
92.K.Jayapal
93.S.Krishnamurthy
94.B.Anbalagan .. Respondents

PRAYER: Against the order of the learned Single Judge dated 10.12.1999 made in W.P.No.10757 of 1992. This petition presented to this under Article 226 of Constitution of India to issue a writ of certiorari mandamus to call for the entire records relating to the proceedings of the Respondent in his proceedings in No.C.No.268,S.No.55 dated 7.3.1992 issued to the numbers of the petitioners Association and quash the said impugned proceedings of the respondent dated 7.3.1992 and consequently forbear the respondents from in any way interfering with the occupation of the petitioners in Tambaram Reserve Forest Area to an extent of 5 acres.

For Appellant : Mr.S.Rajasekaran
Addl. Government Pleader

For Respondents : Mr.M.Venkatachalapathy
Senior Counsel
for Mr.M.Sriram

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J U D G M E N T
(Delivered by P.D.DINAKARAN,J.)

This appeal is directed against the order of the learned Single Judge dated 10.12.1999 made in W.P.No.10757 of 1992 filed by the respondents herein.

2. Shorn of unnecessary details, we deal with the essential facts relevant for the disposal of this appeal. For the sake of convenience, we will refer to the parties as they are arrayed in the writ petition.

2.1. Alleging that the petitioners are unauthorised occupants of the land in the Tambaram Reserved Forest, Tambaram Village and Taluk, the respondent issued an eviction notice directing the petitioners/unauthorised occupants to show cause within five days of receipt of the said notice, as to why they should not be evicted from the said land and the property thereon should not be forfeited to the Government under Section 68-A of the Tamil Nadu Forest Act, 1882 (for brevity, "the Act"). Aggrieved by the said notice issued by the respondent, the petitioners preferred W.P.No.10757 of 1992.

2.2.1. According to the petitioners, notice giving a minimum of ten days should have been given instead of impugned notice giving five days time to submit their objections and therefore, the summary eviction notice is contrary to law.

2.2.2. It is the further case of the petitioners that they are entitled to shelter and by the impugned proceedings the respondent is trying to violate the Constitutional safeguards.

2.3.1. The respondent filed a detailed counter affidavit in the writ petition to the effect that the petitioners/ unauthorised occupants do not have any permanent shelter in the place, but still they occupy the impugned lands under the pretext of labourers employed by the quarry contractors. It is also stated that many of the petitioners have their own permanent residents outside the reserved forest.

2.3.2. The respondent further stated that the petitioners are not, in any way, aggrieved by the notice issued of summary eviction issued under the Section 68-A of the Act.

2.4. The learned Single Judge, by order dated 10.12.1999 in W.P.No.10757 of 1992, dismissed the writ petition, giving directions as under to the District Collector, Chengalpet at Kanchipuram, who is not a party to the writ petition:

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"(i) The petitioners setting out all their grievances would submit a memorandum of application before the District Collector, Chengalpet at Kanchipuram within two months from the date of receipt of the copy of this order.
(ii) The District Collector, Kanchipuram, in turn will appoint a responsible Gazetted Officer as the Enquiry Officer to go into the question of occupation of the lands by the petitioners in the Tambaram Reserve Forest Area and the Enquiry Officer will submit the report to the District Collector, Kanchipuram as early as possible.
(iii) Based on the report submitted by the Enquiry Officer, the District Collector, Kanchipuram shall initiate proper steps either to regularise the present occupation of the petitioners on reclassification of the land if it is feasible, addressing to the Government or in the event that they have to be evicted, providing suitable alternate sites for the genuine occupiers of the area initiating such measures and recommending to the State Government as it is required in the circumstances of the case.
(iv) Since the subject matter being a long pending one, the District Collector, Kanchipuram, is further directed to complete the entire enquiry with due opportunity for the petitioners to be heard and to pass orders within nine months from the date of receipt of such representations by the petitioners.
(v) Till the above directions issued to the District Collector, Kanchipuram are complied with and a decision is arrived at on the subject ultimately resolving the issue, the respondent, forest official is hereby restrained from evicting the petitioners from their genuine occupation of the Tambaram Reserve Forest Area."

3. Heard both sides.

4. It is not in dispute that the impugned land comes within the jurisdiction of the Tambaram Reserved Forest and the respondent/Forest Range Officer has got jurisdiction to initiate summary eviction proceedings under Section 68-A of the Act, which reads as follows:

"Section:68-A. Liability of person unauthorisedly occupying any land in reserved forest etc: to summary eviction:- Any person unauthorisedly occupying any land in reserved forest or any land at the disposal of Government may be summarily evicted by an officer of Forest Department not below the rank of Forest Ranger or an Officer of the Revenue department not below the rank of the Tahsildar having jurisdiction over area in which such land is situated, in such manner, as may be prescribed and any crop or other product raised on such land, shall be liable to forfeiture any building or other construction erected or anything deposited thereon shall also be liable to forfeiture. Forfeiture under this section, shall be adjudged by the officer referred to above and any property so forfeited, shall be disposed of in such manner as may be prescribed.

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Provided that no eviction or adjudication under this section adversely affecting a person shall be made or adjudged, unless-
(a) such person has been given a notice in such manner may be prescribe; and
(b) the representation, if any received in pursuance of such notice has been duly considered by such officer concerned."

5. Once there is no dispute that the impugned land falls within the jurisdiction of the Tambaram Reserve Forest and when the statute specifically empowers the Forest Range Officer to initiate summary eviction proceedings, we are of the considered opinion that the learned Single Judge erred in permitting the petitioners to submit their objections to the District Collector, Chengalpet at Kanchipuram, who is not even a party to the writ petition and has no jurisdiction to decide on the issue.

6. The main object of the Act is to conserve the forests of country and also to regulate the extraction of forest produce on scientific lines. The Act is designed to enable the Government to carry out effectually the conservancy of the forests, and to systematise and regulate the action of the Forest Department.

7. In the words of the Apex Court, 'Sustainable development' is essentially a policy and strategy for continued economic and social development without detriment to the environment and natural resources on the quality of which continued activity and further development depend. Therefore, while thinking of the developmental measures the needs of the present and the ability of the future to meet its own needs and requirements have to be kept in view. While thinking of the present, the future should not be forgotten. We owe a duty to future generations and for a bright today, a bleak tomorrow cannot be countenanced. We must learn from our experiences of the past to make both the present and the future brighter. We learn from our experiences, mistakes from the past, so that they can be rectified for a better present and the future. It cannot be lost sight of that while today is yesterday's tomorrow, it is tomorrow's yesterday. The greenery of India should not be allowed to be perished, to be replaced by deserts. Ethiopia which at a point of time was considered to be one of the greenest countries, is virtually a vast desert today, vide T.N.GODAVARMAN THIRUMALPAD v. UNION OF INDIA AND OTHERS, (2002) 10 S.C.C.606.

8. It is settled law that no person has right to encroach, by erecting any structure or otherwise, in a place reserved or earmarked for public purpose and the authorities constituted under the Act are entitled to initiate action under the provisions of the Act to evict the unauthorised occupants. Longer the delay, the greater would be the danger of permitting the encroachers claiming semblance of right to obstruct removal of encroachment. As the legislature considers it in its

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wisdom that under the general law the eviction process is dilatory and provides for other speedier procedure for evicting unauthorised occupants or sub tenants, it cannot be said that such summary eviction procedure is violative of any of the fundamental rights much less Article 21 of the Constitution of India.

For all these reasons, we are unable to sustain the directions given by the learned Single Judge and we do not see any illegality or lack of jurisdiction in the impugned summary eviction notice issued by respondent. The writ appeal is allowed. The petitioners are permitted to submit their objections within fifteen days from the date of receipt of copy of this order and on receipt of the same the respondent shall pass appropriate orders on merits. No costs.

sasi

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

The Forest Range Officer
Tambaram, Chennai-600 045.

+1 cc to M/s.M.Sriram, Advocate Sr.No.35064.

+1 cc to Special Government Pleader (Forests) Sr.No.34771.

AKR(CO)
dcp/3.7.07

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